

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:) Group Art Unit: 1631
McDONOUGH *et al.*) Examiner: Marschel, A.
Serial No. 08/480,472) Atty. Docket No. GP034-03.DV1
Filed: June 6, 1995) **VIA FACSIMILE**
For: NUCLEIC ACID SEQUENCE)
AMPLIFICATION)

DECLARATION UNDER 37 C.F.R. § 1.131

Box AF
Commissioner for Patents
Washington, D.C. 20231

Sir:

We, Sherrol H. McDonough, Daniel L. Kacian, Nanibhushan Darragupta, Diane L. McAllister, Philip W. Hammond, Thomas B. Ryder and Yeasing Y. Yang, co-inventors of the above-identified patent application, upon information and belief hereby declare as follows:

1. Prior to May 6, 1992, we conceived of and reduced to practice in the United States oligonucleotides having the nucleotide base sequences of SEQ ID Nos. 1, 3-6 and 8-10 of the above-captioned application. Evidence of this prior conception and reduction to practice was recorded in (i) eight sequence request forms submitted for the synthesis of these oligonucleotides by Diane McAllister and (ii) in the laboratory notebooks of Liz Bescher, Mehrdad Majlessi and Sheryl Roberts, who were responsible for oligonucleotide synthesis at Gen-Probe Incorporated at the time. The completed sequence request forms of Diane McAllister are attached hereto as Exhibits A-H, and the relevant laboratory notebook pages of Liz Bescher, Mehrdad Majlessi and Sheryl Roberts are attached hereto as Exhibits I-P. While the dates on these request forms and laboratory notebook pages have been redacted, as well as information which is not relevant to establishing prior conception and reduction to practice, the activities set forth therein were performed in the United States prior to May 6, 1992.

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2. Exhibits A-H are Gen-Probe Incorporated forms for requesting the synthesis of specific oligonucleotides. The oligonucleotides requested in the forms of Exhibits A-H correspond to the nucleotide base sequences of SEQ ID Nos. 1, 3-6 and 8-10 of the above-captioned application, respectively. Diane McAllister submitted these forms to Liz Bescher, Mehrdad Majlessi and Sheryl Roberts for synthesis of the requested oligonucleotides prior to May 6, 1992.

3. Based on these sequence request forms, Liz Bescher, Mehrdad Majlessi and Sheryl Roberts diligently proceeded to synthesize the requested oligonucleotides on CPG columns using a Biosearch Model 8700 or 8750 DNA synthesizer or an ABI Model 380A DNA synthesizer prior to May 6, 1992. Synthesis of oligonucleotides corresponding to the nucleotide base sequences of SEQ ID Nos. 1, 3-6 and 8-10 of the above-captioned application was recorded in the laboratory notebook pages of Exhibits I-P, respectively. The synthesized oligonucleotides were purified on polyacrylamide gels or using Sep-Paks, and their presence was confirmed by optical density measurements taken before and after the crude samples were purified.

We hereby declare that all statements made herein of our own knowledge are true, and that statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of this application and any patent issuing therefrom.

Date: 3-28-02

By: Sherrol H. McDonough
Sherrol H. McDonough

APR-03-02 17:11

FROM-GEN-PROBE EXECUTIVE OFFICE

8584108922

T-684 P.66 F-485

DECLARATION

Serial No. 08/480,472
Atty. Docker No. GP034-03.DV1

Date: 4-1-02

By: Daniel L. Kacian
Daniel L. Kacian

Date: _____

By: _____
Nanibhushan Dattagupta

Date: _____

By: _____
Diane L. McAllister

Date: _____

By: _____
Philip W. Hammond

Date: _____

By: _____
Thomas B. Ryder

Date: _____

By: _____
Yeasing Y. Yang

APR-03-02 17:11

FROM-GEN-PROBE EXECUTIVE OFFICE

8584108922

T-694 P.67 F-485

DECLARATION

Serial No. 08/480,472
Atty. Docket No. GP034-03.DV1

Date: _____

By: _____
Daniel L. Kacian

Date: March 26, 2002

By: Nanibhushan Dattaguptra
Nanibhushan Dattaguptra

Date: _____

By: _____
Diane L. McAllister

Date: _____

By: _____
Philip W. Hammond

Date: _____

By: _____
Thomas B. Ryder

Date: _____

By: _____
Yeasing Y. Yang

APR-03-02 17:12

FROM-GEN-PROBE EXECUTIVE OFFICE

8584108922

T-684 P.68 F-485

DECLARATION

Serial No. 08/480,472
Atty. Docket No. GP034-03.DV1

Date: _____

By: _____
Daniel L. Kacian

Date: _____

By: _____
Nanibhushan Dattagupta

Date: 3-26-02

By: Diane L. McAllister
Diane L. McAllister

Date: _____

By: _____
Philip W. Hammond

Date: _____

By: _____
Thomas B. Ryder

Date: _____

By: _____
Yeasing Y. Yang

APR-03-02 17:12

FROM-GEN-PROBE EXECUTIVE OFFICE

8584108922

T-684 P.69 F-485

DECLARATION

Serial No. 08/480,472
Atty. Docket No. GP034-03.DV1

Date: _____

By: _____
Daniel L. Kacian

Date: _____

By: _____
Nanibhushan Dattagupta

Date: _____

By: _____
Diane L. McAllister

Date: 3/28/02

By: Philip W. Hammond
Philip W. Hammond

Date: _____

By: _____
Thomas B. Ryder

Date: _____

By: _____
Yeasing Y. Yang

DECLARATION

Serial No. 08/480,472
Atty. Docket No. GP034-03.DV1

Date: _____

By: _____
Daniel L. Kacian

Date: _____

By: _____
Nanibhushan Dattagupta

Date: _____

By: _____
Diane L. McAllister

Date: _____

By: _____
Philip W. HammondDate: Mar 27, 2002By: _____
Thomas B. Ryder

Date: _____

By: _____
Yeasing Y. Yang

APR-03-02 17:12

FROM-GEN-PROBE EXECUTIVE OFFICE

8584108922

T-684 P.71 F-485

DECLARATION

Serial No. 08/480,472
Atty. Docket No. GP034-03.DV1

Date: _____

By: _____
Daniel L. Kacian

Date: _____

By: _____
Nanibhushan DattaGupta

Date: _____

By: _____
Diane L. McAllister

Date: _____

By: _____
Philip W. Hammond

Date: _____

By: _____
Thomas B. Ryder

Date: March 24, 2002

By: Yeasing Yang
Yeasing Y. Yang